

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 15 2000
FEDERAL COMMUNICATIONS COMMISSION

Domestic, Interexchange Carrier)	
Detariffing Order Takes Effect;)	
Common Carrier Bureau Implements)	CC Docket No. <u>96-61</u>
Nine-Month Transition Period;)	
Comment Sought on Modifications to)	
Transition Plan)	

**MOTION OF ECONOBILL
CORPORATION TO ACCEPT LATE-FILED PLEADING**

Econobill Corporation ("Econobill"), by its counsel, hereby moves the Commission to accept its Reply Comments in the above-captioned proceeding.

On May 9, 2000, the Commission released a Public Notice requesting public comment on possible modifications to its domestic detariffing transition plan.¹ Comments in response to the Public Notice were due by May 31, 2000 and reply comments were due by June 9, 2000. Econobill timely filed its initial Comments on May 31, 2000.

Econobill seeks permission to file its Reply Comments six (6) days following the reply comment deadline. Given its limited resources, a mere nine (9) days between the comment and reply comment deadline was simply not sufficient time for Econobill to obtain each of the eleven (11) comments filed by other parties, review and assess those filed comments (totaling approximately 130 pages in length), and prepare and file meaningful reply comments. Upon obtaining and reviewing the instant comments, Econobill has proceeded as expeditiously as

¹ Domestic, Interexchange Carrier Detariffing Order Takes Effect; Common Carrier Bureau Implements Nine-Month Transition Period; Comment Sought on Modifications to Transition Plan, DA 00-1028, CC Dkt. No. 96-61, *Public Notice* (May 9, 2000).

No. of Copies rec'd 0+4
List A B C D E

possible in preparing and filing its reply comments.

It is unlikely that any party will be prejudiced by allowing the instant Motion since responsive filings to these replies are not called for by the Commission.

WHEREFORE, Econobill respectfully requests that the Commission grant the instant motion to accept late-filed pleading.

Respectfully submitted,

By: 

Thomas K. Crowe
Jennifer Gorny,
LAW OFFICES OF THOMAS K. CROWE,
P.C.
2300 M Street, N.W., Suite 800
Washington, D.C. 20037
(202) 973-2890 Telephone

COUNSEL FOR ECONOBILL
CORPORATION

June 15, 2000

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Domestic, Interexchange Carrier)	
Detariffing Order Takes Effect;)	
Common Carrier Bureau Implements)	CC Docket No. 96-61
Nine-Month Transition Period;)	
Comment Sought on Modifications to)	
Transition Plan)	

REPLY COMMENTS OF ECONOBILL CORPORATION

Econobill Corporation ("Econobill") respectfully submits the following reply comments in the above-captioned proceeding.

As demonstrated below, no basis exists for addressing the argument of Worldcom, Inc. ("Worldcom") that individual contracts fall outside of the disclosure requirement. In addition, the tariffing transition plan should minimize consumer burden by allowing permissive tariffing of bundled service arrangements. Moreover, the Commission should synchronize the detariffing of domestic and international services even if this means extending the transition period. For carriers with websites, the Commission should clarify the public disclosure requirement such that only minimally necessary, consumer-friendly plan and rate information is made available and that such information be posted on carrier websites sooner rather than later. Finally, specific guidelines should be designated for when public disclosure information should be made available.

**I. NO BASIS EXISTS FOR ADDRESSING WORLDCOM'S
ARGUMENT THAT INDIVIDUAL CONTRACTS
FALL OUTSIDE OF THE DISCLOSURE REQUIREMENT**

In its Comments, Worldcom argues that carriers should not be required to publicly disclose

and/or post individually-negotiated service arrangements.¹ As shown below, the Commission has previously addressed this issue and no basis exists for addressing it again in this proceeding. If anything, the Commission should emphasize its prior determination that individually-negotiated service arrangements (in addition to mass market offerings) are subject to the Section 42.10(a) disclosure requirement.²

Worldcom's Comments attempt to open anew an issue previously resolved by the Commission; namely, whether individually-negotiated service arrangements are subject to public disclosure. In its *Second Order on Reconsideration*, the Commission stated unambiguously: "[a]nd, in order for this disclosure requirement to be meaningful, *it must apply to all arrangements including mass market services and individually-negotiated service arrangements.*"³ The Commission reached this conclusion based on its concern over the potential for consumer harm "in absence of a meaningful public disclosure requirement."⁴ Since Worldcom is essentially seeking reconsideration of this settled issue in this proceeding, which is limited to specific transitional issues identified in the Commission's Public Notice,⁵ its attempt to reopen this issue

¹ See Comments of Worldcom at 7-9 (May 31, 2000).

² 47 C.F.R. § 42.10(a) (1999). See Comments of Econobill at 3 (May 31, 2000) (citing *In re Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, Second Order on Reconsideration and Erratum*, CC Dkt. No. 96-61, 14 FCC Rcd. 6004, 6014, n.60 (rel. Mar. 31, 1999) (*Second Order on Reconsideration*)).

³ *Second Order on Reconsideration*, at 6014, n.60 (emphasis supplied).

⁴ *Id.* at 6014.

⁵ See Domestic, Interexchange Carrier Detariffing Order Takes Effect; Common Carrier Bureau Implements Nine-Month Transition Period; Comment Sought on Modifications to Transition Plan, DA 00-1028, CC Dkt. No. 96-61, *Public Notice* (May 9, 2000).

must be rejected.

Nevertheless, Econobill is seriously concerned that carriers may have less incentive to ensure that individually-negotiated service agreements comply with the Commission's Section 42.10(a) public disclosure requirement.⁶ Without public disclosure of individually-negotiated service agreements, consumers are deprived of their ability to obtain appropriate service arrangements, and the Commission has no way to ensure that carriers comply with Title II common carrier obligations. Thus, to the extent it addresses this issue at all, the Commission should clarify beyond any doubt that the Section 42.10(a) public disclosure obligations apply to individually-negotiated service arrangements.

II. THE RECORD SUPPORTS PERMISSIVE TARIFFING

In its initial Comments, Econobill argued that the tariffing transition plan should minimize consumer burden by permitting bundled service arrangements.⁷ Many other commentors also support permissive tariffing of bundled services during the interim period for reasons similar to those advanced by Econobill. However, permissive tariffing should only be permitted if carriers which benefit from it agree to waive their rights to invoke the Filed Rate Doctrine.

A number of commenting parties support permissive tariffing during the interim period. For example, Sprint Communications Company L.P. ("Sprint") favors permissive tariffing because detariffing domestic service offerings during the transition "effectively deprives the customer of the information that the customer is seeking, namely the entirety of the deal being offered by the

⁶ Worldcom's effort to revisit the issue belatedly in the instant proceeding is an example of this.

⁷ See Comments of Econobill at 1-2.

IXC."⁸ The Comments of AT&T Corp. ("AT&T") similarly echo this same concern: "customer feedback has confirmed to AT&T that there will be significant confusion created by the need for both a tariff and a contract for a single deal, and about the need for and relationship between separate instruments that are intended to deliver an integrated network solution."⁹ In short, as Econobill states in its Comments, requiring carriers to detariff domestic offerings while international offerings remain tariffed would cause needless confusion and increased consumer costs.¹⁰

Allowing carriers to continue to tariff contract service arrangements covering domestic offerings during the interim, however, permits carriers to potentially invoke the Filed Rate Doctrine *vis-a-vis* the domestic component of the offering.¹¹ Clearly, the Commission cannot allow permissive tariffs during the interim period if this grave threat to consumers exists. Therefore, Econobill proposes that carriers electing to take advantage of permissive tariffing waive

⁸ Comments of Sprint at 4 (May 31, 2000).

⁹ Comments of AT&T at 3 (May 31, 2000).

¹⁰ See Comments of Econobill at 2.

¹¹ See Comments of Ad Hoc Telecommunications Users Committee at 5 (May 31, 2000).

their right to invoke the doctrine.¹²

III. DETARIFFING SHOULD OCCUR IN A COORDINATED, SYNCHRONIZED MANNER

Econobill supports the suggestion of AT&T and other commentors that the Commission synchronize the detariffing of domestic and international services even if this means extending the transition period during which tariffed bundled offerings are permitted.

In its Comments, AT&T requests that the Commission modify the existing transition period to allow carriers to implement detariffing simultaneously for domestic and international offerings.¹³ AT&T supports its request by citing "concerns regarding customer confusion and increased costs" which would exist were different tariffing rules to exist for domestic and international offerings.¹⁴ Sprint advances essentially the same position, suggesting that the Commission extend the transition period, if necessary, to synchronize domestic and international detariffing in order to minimize customer confusion.¹⁵

For the same reasons that it supports permissive tariffing, Econobill strongly agrees that bifurcating the detariffing of domestic and international offerings is not in the best interests of

¹² Sprint proposes that carriers file informational bundled service "tariffs" which clearly state that the submission is not filed pursuant to Section 203 of the Communications Act of 1934, as amended. *See* Comments of Sprint at 4. Econobill submits that such an approach appears to offer sufficient consumer protection and should be carefully considered by the Commission for purposes of legal sufficiency.

¹³ *See* Comments of AT&T at 5.

¹⁴ *Id.* at 6.

¹⁵ *See* Comments of Sprint at 7.

consumers. Such an inconsistent approach will invariably confuse customers. End users are accustomed to purchasing domestic and international services as a single, integrated product.¹⁶ Requiring them to now operate in an environment where domestic offerings are detariffed while international offerings remain tariffed will cause confusion unnecessarily; adversely impact customers' ability to obtain useful information and make informed choices; and lead to significant expenditures of time and effort to understand and match detariffed domestic offerings with tariffed international components. All of this can be avoided by simply implementing detariffing simultaneously for both international and domestic services.¹⁷

IV. IXCs SHOULD COMPLY WITH THE WEBSITE POSTING REQUIREMENT IN A CONSUMER-FRIENDLY MANNER AS SOON AS POSSIBLE

The Commission should clarify the public disclosure requirement such that only minimally necessary, consumer-friendly plan and rate information is made available by carriers on their websites pursuant to Section 42.10 of the Commission's Rules. Since complying with this requirement should not be time-consuming, the website posting requirement should be implemented as soon as possible for carriers which currently have websites.

A. The Website Posting Requirement Must Be Clarified To Ensure That Information Is Presented In An "Easy To Understand Format"

Section 42.10(a) of the Commission's Rules requires information to be made available in "an easy to understand format." To ensure that this provision is understood, the Commission should clarify that information posted on carrier websites should be limited to basic plan and rate

¹⁶ See Comments of Econobill at 1-2. See also Comments of Worldcom at 17.

¹⁷ Of course, for the same reasons as set forth in the previous section, if the period during which carriers can continue filing domestic tariffs is extended, carriers should be precluded from invoking the Filed Rate Doctrine. See *supra*, at 4.

information presented in a consumer-friendly format. Such information should avoid detailed and complex nonessential terms. Unnecessarily complex or technical information on websites will both confuse and overwhelm consumers and necessarily delay implementation of the posting obligation.

The Commission should also clarify that the mere posting on websites of carrier verbatim tariffs withdrawn under detariffing does not satisfy the "easy to understand format" requirement. As Econobill states in its Comments, existing carrier tariffs do not come close to satisfying this requirement.¹⁸ Accordingly, Econobill opposes the verbatim duplication of complete, existing tariffs on websites as a method of compliance.¹⁹

B. A Website Posting Should Be Implemented As Soon As Possible

Since posting basic plan and rate information in "an easy to understand format" should not take significant time, the website posting requirement should be implemented sooner rather than later.

Commenting parties varied significantly in their position on this issue. Econobill urged the Commission to implement the posting requirement immediately, or by July 1, 2000.²⁰ The General Services Administration ("GSA") advocated a posting deadline of September 30, 2000,

¹⁸ See Comments of Econobill at 2.

¹⁹ Finally, as Econobill argues in its Comments, the Commission should clarify that website postings must identify the specific address location where public disclosure information available under Section 42.10(a) may be obtained. See *id.* at 3. In this manner, consumers will be aware that more complete information regarding specific offerings can be obtained at specific physical locations. Without such disclosure, consumers may never be aware of the Commission's location-specific disclosure requirement.

²⁰ See Comments of Econobill at 2.

four months before the conclusion of the nine-month transition period.²¹ GSA also urged that "[a]s a protection for consumers, there should be no time at which information is not available either in tariff form or on websites."²² AT&T, at the other end of the spectrum, proposed that the website posting requirement should be implemented no sooner than thirty days after the expiration of the transition period.²³

To ensure protection of consumer interests and facilitate access to carrier rate information, implementation of the website posting requirement should not be delayed. Econobill urges the Commission to set a bright line date by which carriers must comply with the posting requirement, a date which is sooner rather than later. At a minimum, Econobill concurs with GSA that there should be no time at which information is not available either in tariff form or on websites. Econobill also concurs with GSA that an earlier posting deadline benefits consumers by enhancing their familiarity with carrier website rate information, layouts and download procedures.²⁴ Finally, implementing the website posting requirement as soon as possible should be feasible if the postings are limited to basic plan and rate information presented in "an easy to understand format."

²¹ See Comments of the GSA at 6 (May 31, 2000).

²² *Id.* GSA also cites two other advantages to a posting requirement substantially in advance of the mandatory detariffing deadline of January 31, 2001. First, an earlier deadline provides consumers with more opportunities to gain experience with new carrier rate information website layouts and downloading procedures. Second, an earlier posting date provides additional motivations for carriers to accelerate tariff cancellation. *See id.*

²³ See Comments of AT&T at 8.

²⁴ See Comments of GSA at 6.

**V. PUBLIC DISCLOSURE INFORMATION MUST
BE MADE AVAILABLE IN A TIMELY MANNER**

The Commission should designate specific guidelines or time frames for when public disclosure information should be made available.

Econobill concurs with the Comments of the Telecommunications Management Information Systems Coalition ("Coalition") which urges the Commission to specifically clarify the phrase "in a timely manner" in Section 42.10(a) of the Commission's Rules.²⁵ Econobill agrees that disclosure within twenty-four hours of effectuation of new or revised rates, terms and conditions is appropriate.²⁶ Allowing carriers to construe this vague phrase without guidance would all but ensure infrequent updates and lengthy time windows, and would likely thwart consumer attempts to obtain current information for comparison purposes.

²⁵ See Comments of Coalition at 4-5 (May 31, 2000).

²⁶ See *id.*

VI. CONCLUSION

As demonstrated above, Econobill urges the Commission to adopt the recommendations outlined both herein and in its initial Comments submitted in this proceeding.

Respectfully submitted,

By: Nissan Rosenthal (TKC)
Nissan Rosenthal
President
ECONOBILL CORPORATION
1351 East 10th Street
Brooklyn, New York 11230
(718) 376-6666 Telephone

Of Counsel:

Thomas K. Crowe
Jennifer Gorny,
LAW OFFICES OF THOMAS K. CROWE, P.C.
2300 M Street, N.W., Suite 800
Washington, D.C. 20037
(202) 973-2890 Telephone

June 15, 2000

CERTIFICATE OF SERVICE

I, Jennifer Gorny, an Attorney with the Law Offices of Thomas K. Crowe, P.C., hereby certify that copies of the foregoing "Motion of Econobill Corporation to Accept Late-Filed Pleading" and "Reply Comments of Econobill Corporation" have been served by first class United States mail, postage prepaid, or by hand delivery where indicated by an asterisk (*), on the parties listed below on this 15th day of June, 2000.

Chief *

Competitive Pricing Division
Common Carrier Bureau
445 12th Street, S.W.
T.W.-A225
Washington, D.C. 20554

Magalie Roman Salas *

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Tamara Preiss, Deputy Division Chief *

Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

International Transcription Services *

1231 20th Street, N.W.
Washington, D.C. 20036

Renee Terry, Manager *

Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Edward Shakin

1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Mark O. Rosenblum

Roy E. Hoffinger
Richard H. Rubin
295 N. Maple Ave., Room 1133MI
Basking Ridge, NJ 07920

Judith A. Nitsche, Branch Chief *

Tariff & Pricing Analysis
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

George N. Barclay

Michael J. Ettner
General Services Administration
1800 F Street, N.W., Rm. 4002
Washington, D.C. 20405

Peter Friedman *

Consumer Information Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Charles C. Hunter

Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W.
Suite 701
Washington, D.C. 20006

Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

James S. Blaszak
Ellen G. Block
Levine, Blaszak, Block & Boothby LLP
2001 L Street, N.W., Suite 900
Washington, D.C. 20036

Cheryl A. Tritt
Joan E. Neal
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006

L. Marie Guillory
Daniel Mitchell
National Telephone Cooperative
Association
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

Leon M. Kestenbaum
Michael B. Fingerhut
Marybeth M. Banks
Sprint Communications Company LP
401 9th Street, N.W., 4th Floor
Washington, D.C. 20004

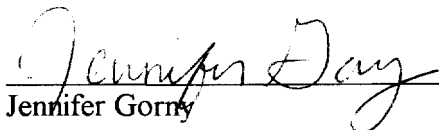
Mary L. Brown
Karen Reidy
WORLD COM, INC.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Jodie L. Kelley
Elizabeth A. Cavanagh
Jenner & Block
601 13th Street, N.W.
Suite 1200
Washington, D.C. 20005

Robert J. Aamoth
Todd D. Daubert
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Carol Ann Bischoff
Robert M. McDowell
Competitive Telecommunications
Association
1900 M Street, N.W.
Suite 800
Washington, D.C. 20036

Robin Blackwood
GTE Service Corporation
6665 North MacArthur Boulevard
Irving, TX 75309


Jennifer Gorny